

1 SENATE BILL 296

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

3 INTRODUCED BY

4 Phil A. Griego

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10 AN ACT

11 RELATING TO CHILD SUPPORT; REQUIRING PARENTS MANDATED TO PAY  
12 CHILD SUPPORT ALSO TO PROVIDE HEALTH AND DENTAL INSURANCE.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 Section 1. Section 27-1-14 NMSA 1978 (being Laws 1997,  
16 Chapter 237, Section 34) is amended to read:

17 "27-1-14. ENFORCEMENT OF ORDERS FOR HEALTH CARE.--

18 A. All Title IV-D [~~child support orders enforced~~]  
19 agency cases shall include a provision for the health and  
20 dental care coverage of [~~the~~] each child [~~and~~]. In the case in  
21 which a noncustodial parent provides such coverage and changes  
22 employment and the new employer provides [~~health care~~] such  
23 coverage, the state Title IV-D agency shall transfer notice of  
24 the provision to the employer, which notice shall operate to  
25 enroll [~~the~~] each child in the [~~noncustodial parent's~~] medical

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1 support obligor's health plan unless the [noncustodial parent]  
2 medical support obligor successfully contests the notice.

3 B. For purposes of this section, "medical support  
4 obligor" means a person owing a duty of support, including the  
5 duty to provide health and dental support, or against whom a  
6 proceeding for the enforcement of such a duty of support is  
7 commenced or for registration of a support order that includes  
8 provisions for such support for each minor child."

9 Section 2. Section 40-4C-2 NMSA 1978 (being Laws 1990,  
10 Chapter 78, Section 2, as amended) is amended to read:

11 "40-4C-2. PURPOSE.--To [assure] ensure that children have  
12 access to quality medical care, it is the purpose of the  
13 Mandatory Medical Support Act to require parents [~~responsible~~  
14 ~~for the support of minor children~~] to provide or purchase  
15 health insurance and dental insurance coverage for [~~those~~  
16 their minor children when such coverage is available."

17 Section 3. Section 40-4C-3 NMSA 1978 (being Laws 1990,  
18 Chapter 78, Section 3, as amended) is amended to read:

19 "40-4C-3. DEFINITIONS.--As used in the Mandatory Medical  
20 Support Act:

21 A. "court" means any district court ordering child  
22 support of [~~an~~] a medical support obligor;

23 B. "dental insurance coverage" means those  
24 coverages generally associated with a dental plan of benefits,  
25 not including medicaid coverage authorized by Title 19 of the

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1 Social Security Act and administered by the department;

2 C. "department" means the human services  
3 department;

4 D. "employer" means an individual, organization,  
5 agency, business or corporation hiring ~~[an]~~ a medical support  
6 obligor for pay;

7 E. "health insurance coverage" means those  
8 coverages generally associated with a medical plan of benefits,  
9 not including medicaid coverage authorized by Title 19 of the  
10 Social Security Act and administered by the department;

11 F. "insurer" means an employment-related or other  
12 group health care insurance plan, a health maintenance  
13 organization, a nonprofit health care plan or other type of  
14 health care insurance plan under which medical or dental  
15 services are provided, regardless of service delivery  
16 mechanism;

17 G. "medical support obligee" means a person to whom  
18 a duty of support is owed or a person, including the  
19 department, who has commenced a proceeding for enforcement of a  
20 duty to provide health and dental support for each minor child  
21 or for registration of a support order that includes a  
22 provision for such support for each minor child;

23 H. "medical support obligor" means a person owing a  
24 duty of support, including the duty to provide health and  
25 dental support or against whom a proceeding for the enforcement

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1 of such a duty of support is commenced or for registration of a  
2 support order that includes provisions for such support for  
3 each minor child;

4 ~~[G.]~~ I. "minor child" means a child younger than  
5 eighteen years of age who has not been emancipated; and

6 ~~[H.]~~ J. "national medical support notice" means a  
7 ~~[court-ordered]~~ notice to an employer that an employee's child  
8 must be covered by the employment-related group health and  
9 dental care insurance plan pursuant to a court order.

10 ~~[I. "obligee" means a person to whom a duty of~~  
11 ~~support is owed or a person, including the department, who has~~  
12 ~~commenced a proceeding for enforcement of an alleged duty of~~  
13 ~~support or for registration of a support order, regardless of~~  
14 ~~whether the person to whom a duty of support is owed in a~~  
15 ~~recipient of public assistance; and~~

16 ~~J. "obligor" means a person owing a duty of support~~  
17 ~~or against whom a proceeding for the enforcement of a duty of~~  
18 ~~support or for registration of a support order is commenced]"~~

19 Section 4. Section 40-4C-4 NMSA 1978 (being Laws 1990,  
20 Chapter 78, Section 4, as amended) is amended to read:

21 "40-4C-4. MEDICAL SUPPORT--ORDER.--

22 A. The court shall ~~[order an obligor to name the~~  
23 ~~minor child on behalf of whom support is owed as an eligible~~  
24 ~~dependent of health insurance coverage or dental insurance~~  
25 ~~coverage if]~~ determine a parent to be a medical support obligor

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1 based on the following:

2 (1) the availability of health [~~insurance~~  
3 ~~coverage or~~] and dental insurance coverage that meets or  
4 exceeds the minimum standards required under the Mandatory  
5 Medical Support Act [~~is not available at a more reasonable cost~~  
6 ~~to the obligee than to the obligor for coverage of the minor~~  
7 ~~child~~]; and

8 (2) [~~such~~] the availability of health  
9 [~~insurance coverage or~~] and dental insurance coverage [~~is~~  
10 ~~available to the obligor~~] through an employment-related or  
11 other group health and dental care insurance plan.

12 B. When a medical support obligor is ordered to  
13 provide health and dental insurance coverage, the medical  
14 support obligor shall properly name each minor child on behalf  
15 of whom support is owed as an eligible dependent on such  
16 insurance.

17 [~~B.~~] C. The court may consider the impact of the  
18 cost of health [~~insurance coverage or~~] and dental insurance  
19 coverage on the payment of the base child support amounts in  
20 determining whether such insurance coverage shall be ordered.

21 [~~C.~~] D. The court may order the medical support  
22 obligor to obtain health [~~insurance coverage or~~] and dental  
23 insurance coverage for [~~any~~] each minor child to whom support  
24 is owed if [~~if~~] the court finds that health [~~insurance~~  
25 ~~coverage or~~] and dental insurance coverage for [~~the~~] each minor

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1 child is not available to the medical support obligor through  
2 an employment-related or other group health care insurance  
3 plan. [~~and~~

4 ~~(2) the obligee does not have such health~~  
5 ~~insurance coverage or dental insurance coverage available at a~~  
6 ~~more reasonable cost than the obligor for coverage of the minor~~  
7 ~~child.~~

8 ~~D.]~~ E. The court shall require the medical support  
9 obligor to be liable for all or a portion of the medical [~~or~~]  
10 and dental expenses of [~~the~~] each minor child that are not  
11 covered by the required health and dental insurance coverage  
12 [~~or dental insurance coverage~~] if:

13 (1) the court finds that the health [~~insurance~~  
14 ~~coverage~~] or dental insurance coverage required to be obtained  
15 by the medical support obligor [~~or available to the obligee~~]  
16 does not pay all the reasonable and necessary medical or dental  
17 expenses of [~~the~~] each minor child; and

18 (2) the court finds that the medical support  
19 obligor has the financial resources to contribute to the  
20 payment of these medical [~~or~~] and dental expenses.

21 [~~E.]~~ F. The court shall require the medical support  
22 obligor to provide health insurance coverage or dental  
23 insurance coverage for the benefit of the medical support  
24 obligee if it is available at no additional cost to the medical  
25 support obligor.

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1           [F-] G. The court in any proceeding for the  
2 establishment, enforcement or modification of a child support  
3 obligation may modify an existing order of support or establish  
4 child support, as applicable, for [~~the~~] each minor child to  
5 incorporate the provisions for medical and dental support  
6 ordered pursuant to the Mandatory Medical Support Act."

7           Section 5. Section 40-4C-5 NMSA 1978 (being Laws 1990,  
8 Chapter 78, Section 5) is amended to read:

9           "40-4C-5. ORDER--PROOF OF COMPLIANCE--NOTICE.--

10           A. The medical support obligor shall provide to the  
11 medical support obligee within thirty days of receipt of  
12 effective notice of a court order for health [~~insurance~~  
13 ~~coverage or~~] and dental insurance coverage pursuant to the  
14 Mandatory Medical Support Act written proof of the medical  
15 support obligor's compliance with that order. Compliance means  
16 either that the health [~~insurance coverage or~~] and dental  
17 insurance coverage has been obtained or that a correct and  
18 complete application for such coverage has been made.

19           B. The medical support obligee shall forward a copy  
20 of the court order for health [~~insurance coverage or~~] and  
21 dental insurance coverage issued pursuant to the Mandatory  
22 Medical Support Act to the medical support obligor's employer  
23 or union only when ordered to do so by the court or when:

24           (1) the medical support obligor fails to  
25 provide written proof of compliance with the court order to the

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1 medical support obligee within thirty days of the medical  
2 support obligor's receipt of effective written notice of the  
3 court order;

4 (2) the medical support obligee serves by mail  
5 at the medical support obligor's last known post office address  
6 written notice on the medical support obligor of the medical  
7 support obligee's intent to enforce the order; and

8 (3) the medical support obligor fails to  
9 provide within fifteen days after the date the medical support  
10 obligee mailed the notice in Paragraph (2) of this subsection  
11 written proof to the medical support obligee that the medical  
12 support obligor has obtained the health [~~insurance coverage or~~]  
13 and dental insurance coverage ordered by the court or has  
14 applied for such coverage.

15 C. Upon receipt of a court order for health  
16 [~~insurance coverage or~~] and dental insurance coverage pursuant  
17 to the Mandatory Medical Support Act, the employer or union  
18 shall forward a copy of the order to the health insurer or  
19 dental insurer, as applicable."

20 Section 6. Section 40-4C-6 NMSA 1978 (being Laws 1990,  
21 Chapter 78, Section 6, as amended) is amended to read:

22 "40-4C-6. OBLIGATIONS--EMPLOYERS, UNIONS AND INSURERS--  
23 PLAN.--

24 A. Upon receipt of a national medical support  
25 notice or the court order for health [~~insurance coverage or~~]

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1 and dental insurance coverage pursuant to Section 40-4C-5 NMSA  
2 1978 or upon application of the medical support obligor  
3 pursuant to the court order, the employer or union shall enroll  
4 the minor child as an eligible dependent in the health  
5 ~~[insurance plan or]~~ and dental insurance plan and withhold any  
6 required premium from the medical support obligor's income or  
7 wages. If more than one health ~~[insurance plan or]~~ and dental  
8 insurance plan is offered by the employer, union or insurer,  
9 the minor child shall be enrolled in the plan in which the  
10 medical support obligor is enrolled. If the medical support  
11 obligor is not enrolled in a plan, the child shall be enrolled  
12 in a plan that meets the minimum coverage criteria required  
13 pursuant to the Mandatory Medical Support Act. If the medical  
14 support obligor is not enrolled in a plan, the premiums charged  
15 for the child or children of the medical support obligor shall  
16 be those charged for the enrollment of the medical support  
17 obligor only.

18 B. In any instance in which the medical support  
19 obligor is required by a court order to provide health  
20 ~~[insurance coverage or]~~ and dental insurance coverage for ~~[the]~~  
21 each minor child and the medical support obligor is eligible  
22 for health ~~[insurance coverage or]~~ and dental insurance  
23 coverage through an employment-related or other group health  
24 care insurance plan, the employer, union or insurer shall do  
25 the following:

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1 (1) permit the medical support obligor to  
2 enroll for health [~~insurance coverage or~~] and dental insurance  
3 coverage [~~the~~] each minor child who is otherwise eligible for  
4 coverage without regard to any enrollment season restrictions;

5 (2) enroll [~~the~~] each minor child for health  
6 [~~insurance coverage or~~] and dental insurance coverage if the  
7 medical support obligor fails to enroll [~~the~~] each minor child  
8 upon application by the medical support obligee or the  
9 department;

10 (3) not disenroll or eliminate coverage of any  
11 minor child so enrolled unless:

12 (a) the employer is provided with  
13 satisfactory written evidence that the court order is no longer  
14 in effect;

15 (b) the minor child is or will be  
16 enrolled in comparable health coverage that meets the coverage  
17 criteria required pursuant to the Mandatory Medical Support Act  
18 and that will take effect not later than the effective date of  
19 the disenrollment;

20 (c) the medical support obligor has  
21 terminated employment; or

22 (d) the employer has eliminated health  
23 [~~insurance coverage or~~] and dental insurance coverage for all  
24 of its employees; and

25 (4) withhold from the medical support

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1 obligor's compensation the medical support obligor's share, if  
2 any, of premiums for health [~~insurance coverage or~~] and dental  
3 insurance coverage and to pay the share of premiums to the  
4 insurer, unless otherwise provided in law or regulation.

5 C. In those instances [~~where~~] in which the medical  
6 support obligor fails or refuses to execute any document  
7 necessary to enroll [~~the~~] a minor child in the health  
8 [~~insurance plan or~~] and dental insurance plan ordered by the  
9 court, the required information and authorization may be  
10 provided by the department or the custodial parent or guardian  
11 of the minor child.

12 D. Information and authorization provided by the  
13 department or the custodial parent or guardian of [~~the~~] a minor  
14 child shall be valid for the purpose of meeting enrollment  
15 requirements of the health [~~insurance plan or~~] and dental  
16 insurance plan and shall not affect the obligation of the  
17 employer or union and the insurer to enroll the minor child in  
18 the health [~~insurance plan or~~] and dental insurance plan for  
19 which other eligibility, enrollment, underwriting terms and  
20 other requirements are met. In instances in which [~~the~~] a  
21 minor child is insured through the medical support obligor, the  
22 insurer shall provide all information to the medical support  
23 obligee that may be helpful or necessary for the minor child to  
24 obtain benefits.

25 E. A minor child that [~~an~~] a medical support

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1 obligor is required to cover as an eligible dependent pursuant  
2 to the Mandatory Medical Support Act shall be considered for  
3 insurance coverage purposes as a dependent of the medical  
4 support obligor until the child is emancipated or until further  
5 order of the court.

6 F. In instances in which [~~the~~] a minor child is  
7 insured through [~~the~~] a medical support obligor, the insurer is  
8 prohibited from denying health [~~insurance coverage or~~] and  
9 dental insurance coverage of the minor child on the grounds  
10 that the minor child was born out of wedlock, that the minor  
11 child is not claimed as a dependent on the medical support  
12 obligor's federal income tax return or that the minor child  
13 does not reside with the medical support obligor or reside in  
14 the insurer's service area.

15 G. In instances in which [~~the~~] a minor child is  
16 insured through [~~the~~] a medical support obligor, the insurer is  
17 prohibited from imposing requirements on the department that  
18 are different from requirements applicable to an agent or  
19 assignee of any other individual covered by the insurer.

20 H. In instances in which [~~the~~] a minor child is  
21 insured through [~~the~~] a medical support obligor who is a  
22 noncustodial parent, the insurer shall permit the [~~obligee~~]  
23 custodial parent or health care provider, with the approval of  
24 the [~~obligee~~] custodial parent, to submit claims for covered  
25 services without the approval of the medical support obligor.

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1 The insurer shall make payments on submitted claims directly to  
2 the ~~[obligee]~~ custodial parent or the health care provider.

3 I. ~~[When]~~ If the medical support obligor is  
4 terminated, the employer shall notify the department of the  
5 termination."

6 Section 7. Section 40-4C-10 NMSA 1978 (being Laws 1990,  
7 Chapter 78, Section 10, as amended) is amended to read:

8 "40-4C-10. EMPLOYER, UNION OR INSURER NOTICE.--When an  
9 order for health ~~[insurance coverage or]~~ and dental insurance  
10 coverage pursuant to the Mandatory Medical Support Act is in  
11 effect, upon termination of the medical support obligor's  
12 employment or upon termination of the insurance coverage, the  
13 employer, union or insurer shall make a good faith effort to  
14 notify the ~~[obligee]~~ department and the other parent within ten  
15 days of the termination date with notice of conversion  
16 privileges."

17 Section 8. Section 40-4C-11 NMSA 1978 (being Laws 1990,  
18 Chapter 78, Section 11, as amended) is amended to read:

19 "40-4C-11. RELEASE OF INFORMATION.--When an order for  
20 health ~~[insurance coverage or]~~ and dental insurance coverage  
21 pursuant to the Mandatory Medical Support Act is in effect, the  
22 medical support obligor's employer, union or insurer shall  
23 release to the ~~[obligee]~~ other parent, upon request,  
24 information on such coverage, including the name of the  
25 insurer."

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1           Section 9. Section 40-4C-12 NMSA 1978 (being Laws 1990,  
2 Chapter 78, Section 12, as amended) is amended to read:

3           "40-4C-12. MEDICAL SUPPORT OBLIGOR LIABILITY.--

4           A. [~~An~~] A medical support obligor who fails to  
5 maintain the health [~~insurance coverage or~~] and dental  
6 insurance coverage for the benefit of a minor child as ordered  
7 pursuant to the Mandatory Medical Support Act shall be liable  
8 to the [~~obligee~~] department or the other parent for any medical  
9 and dental expenses incurred from the date of the court order.

10           B. [~~An~~] A medical support obligor who receives  
11 payment from a third party for the costs of medical or dental  
12 services provided to a minor child and who fails to use the  
13 payment to reimburse the department is liable to the department  
14 to the extent of the department's payment for the services.  
15 The department is authorized to intercept the obligor's tax  
16 refund, if the medical support obligor is a noncustodial  
17 parent, or use other means of enforcement available to the  
18 department to recoup amounts paid. Claims for current or past  
19 due child support take priority over any claims made pursuant  
20 to this subsection. [~~Proof of~~] Failure to maintain health  
21 [~~insurance coverage or~~] and dental insurance coverage as  
22 ordered constitutes a showing of increased need [~~by the~~  
23 ~~obligee~~] and provides a basis for modification of the medical  
24 support obligor's child support order.

25           C. [~~An~~] A medical support obligor is required to

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1 provide the department with the following information  
2 concerning health [~~insurance coverage or~~] and dental insurance  
3 coverage:

4 (1) medical support obligor's name and tax  
5 identification number;

6 (2) type of coverage (single or family);

7 (3) name, address and identifying number of  
8 health [~~insurance coverage~~] or dental insurance coverage;

9 (4) name and tax identification number of  
10 other individuals who are provided health [~~insurance coverage~~]  
11 or dental insurance coverage by the medical support obligor;

12 (5) effective period of coverage; and

13 (6) name, address and the tax identification  
14 number of the employer."

15 Section 10. Section 40-4C-13 NMSA 1978 (being Laws 1990,  
16 Chapter 78, Section 13, as amended) is amended to read:

17 "40-4C-13. DEPARTMENT--DUTIES.--The department shall  
18 [~~implement~~] pursue the establishment and [~~enforce~~] enforcement  
19 of an order for health [~~insurance coverage or~~] and dental  
20 insurance coverage when [~~the~~] a minor child receives public  
21 assistance or medicaid or upon application of [~~the obligee~~] a  
22 custodial or noncustodial parent to the department and payment  
23 by the [~~obligee~~] custodial or noncustodial parent of [~~any~~] fees  
24 required by the department."

25 Section 11. Section 40-4C-14 NMSA 1978 (being Laws 1990,

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1 Chapter 78, Section 14) is amended to read:

2 "40-4C-14. ENFORCEMENT.--All remedies available for the  
3 collection and enforcement of child support apply to medical  
4 support ordered pursuant to the Mandatory Medical Support Act.  
5 For the purpose of enforcement, the costs of individual or  
6 group health or hospitalization coverage or liabilities  
7 established pursuant to Section [~~11 of the Mandatory Medical~~  
8 ~~Support Act are considered to be additional child support]~~  
9 40-4C-12 NMSA 1978 shall be included in a medical support  
10 judgment."

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